

BOULT
CUMMINGS
CONNERS
& BERRY

LAW OFFICES

414 UNION STREET, SUITE 1600
POST OFFICE BOX 198061
NASHVILLE, TENNESSEE 37219

REC'D TN
REGULATORY AUTH.

June 22, 2000

OFFICE OF THE
EXECUTIVE SECRETARY

Henry Walker
(615) 252-2363
Fax: (615) 252-6363
Email: hwalker@bccb.com

TELEPHONE (615) 244-2582
FACSIMILE (615) 252-2380
INTERNET WEB <http://www.bccb.com/>

H. Lynn Greer, Jr.
Director, Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

Re: All Telephone Companies Tariff Filings Regarding Reclassification of Pay
Telephone Service as Required by FCC Docket 96-128
Docket No. 97-00409

Dear Director Greer:

Attached is a motion filed by the Tennessee Payphone Owners Association ("TPOA")
in the above-captioned proceeding in which you are the Hearing Officer.

TPOA asks that you give this matter your immediate attention so that your ruling,
either granting or denying the motion, can be placed before the Authority at its July 11, 2000
conference.

I have faxed a copy of the motion to BellSouth, and would ask that you request that
BellSouth respond to this motion within seven (7) days. At that point, if you feel a hearing on the
motion is necessary, TPOA asks that you schedule this matter for a brief hearing during the week
of July 3, 2000. I would anticipate that the hearing would not last longer than one hour since the
issues raised in the motion do not involve any disputed facts.


As shown in the affidavits attached to the motion, the members of TPOA urgently
need and deserve rate relief.

Thank you for your prompt response to this request.

H. Lynn Greer, Jr.
June 22, 2000
Page 2

Sincerely,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: 
Henry Walker
Counsel for TPOA

HW/nl
c: All parties

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE: All Telephone Companies Tariff Filings Regarding Reclassification of Pay Telephone Service As Required By Federal Communications Commission (FCC) Docket 96-128

Docket No. 97-00409

MOTION FOR INTERIM RELIEF

The Tennessee Payphone Providers Association ("TPOA") requests an immediate, interim reduction — to \$18.90 per month — in the payphone line rates charged by BellSouth Telecommunications, Inc. ("BellSouth"). This interim rate would remain in effect pending the final outcome of this proceeding. Because of the urgent nature of this request, the TPOA asks that the Hearing Officer consider this motion in time to place his recommended decision before the Authority at the July 11, 2000 conference.

DISCUSSION

Three years ago, the Federal Communications Commission directed that incumbent, local exchange carriers such as BellSouth establish cost-based rates for pay telephone service. The FCC declared that those rates must be effective as of April 15, 1997. In response, the Authority opened this proceeding to set pay telephone rates in accordance with the FCC's directions and, by agreement of the parties, declared that the payphone rate, once finally determined, would be "trued up" retroactively to April, 1997.

Today, members of TPOA who operate pay telephones in the BellSouth area are paying, on average, more than \$40 per month for each telephone line. That figure includes both the Subscriber Line Charge (SLC) and the Presubscribed Interexchange Carrier Charge (PICC)

which TPOA members are required to pay each month in addition to BellSouth's line and usage charges. Based on a recent ruling from the FCC staff, that \$40 rate is approximately twice what it should be.

As described in TPOA's letter to you dated March 21, 2000, the FCC's Competitive Pricing Division recently clarified the manner in which cost-based rates for pay telephone lines should be developed. (A copy of the Division's order was attached to the March 21 letter.) First, the Division said pay phone lines are comparable to UNEs and, absent unusual circumstance, should be priced accordingly. Second, the Division said that BellSouth must subtract revenue from the SLC and PICC to avoid "double counting". That adjustment alone will reduce BellSouth's current payphone charges by more than \$10 month.¹

If one adjusts BellSouth's current payphone line rate to (1) take into account the SLC and PICC charges (2) set loop, port, switching and billed number screening rates that are consistent with the Authority's UNE docket and (3) compute usage charges based on 600 to 700 calls a month, the end result will be a payphone rate of \$18.90 per line, or less.²

¹ BellSouth and other incumbent carriers have filed an appeal with the FCC objecting to the Division's finding that payphone line rates are comparable to UNEs. BellSouth's appeal, however, did not challenge the Division's finding regarding the double counting of SLC and PICC charges. As the Division explained, the SLC and PICC charges compensate BellSouth for the "interstate" portion of the carrier's loop costs and, therefore, must be deducted from BellSouth's "unseparated" costs to avoid double counting.

² Even that figure is still higher than the final rate the TRA will likely set in this docket. Based on BellSouth's June 9, 2000, filing in docket 97-01262 (the UNE docket), the average cost of a loop is \$14.92, a "coin port" is \$2.16 and usage charges (based on 650 calls per month) would be \$1.81. "Billed number screening" adds another penny for a total rate of \$18.90. The end result is still higher than a true, cost-based rate because a payphone loop is shorter, on average, than other loops. Based on results in other states, the actual cost of a payphone loop is about 83 % of BellSouth's UNE loop rate.

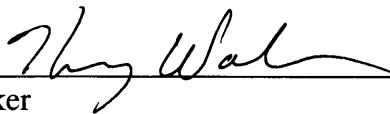
Based on these calculations, TPOA members expect to receive substantial refunds once the Authority fixes cost-based rates that apply retroactively to April 15, 1997. Those refunds, however, may come too late to keep some members in business or to prevent the elimination of hundreds of marginal payphone locations.

As shown in the attached affidavits, payphone owners are suffering severe economic harm as a result of the unforeseen, three-year delay in fixing cost-based rates. Some are going out of business; others are taking out all but the most profitable payphones. The members of TPOA need immediate, interim relief if they are to continue providing service.

For these reasons, TPOA asks that BellSouth's payphone rate be reduced, effective immediately, to \$18.90 per month, pending a final determination of cost-based payphone rates later this year. In the unlikely event that the final rate is higher than \$18.90, whatever money the TPOA members owe BellSouth would be more than offset by the excess rates BellSouth has collected since April, 1997.

For more than three years, TPOA has paid BellSouth's unchallenged, unexamined payphone line rates, subject to a retroactive "true-up." The burden of this delay has fallen entirely on TPOA's members. In light of the recent ruling from the FCC, it is now time for both sides to share the risk of any further postponement in arriving at a final payphone line rate.

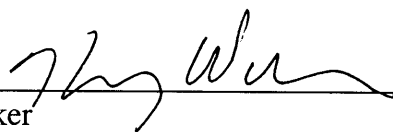
Respectfully submitted,



Henry Walker
BOULT, CUMMINGS, CONNERS & BERRY, PLC
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, TN 37219
(615) 252-2363

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded, via U.S. Mail, postage prepaid to all parties of record this 22 day of June, 2000


Henry Walker

FROM : TPBA

FAX NO. : 6158619248

Jun. 19 2000 08:09AM P2

AFFIDAVIT

Comes now Affiant, (name) Richard Kendall and states and deposes as follows:

1. My name is Richard L. Kendall. The name of my payphone company is R+H Network, Inc. I have 348 payphones in service today. Of those, 327 are located in Bell South's service territory.
2. My average usage per phone in BellSouth's area is approximately 340 calls per month. My average BellSouth bill, including EULC and PCCC charges, is approximately \$ 45.00 per phone.
3. Please explain, in your own words, how your business has fared in the last three years. Have costs gone up? Are revenues down? Have you pulled phones from marginal locations? How many? Are you aware of other payphone owners who have gone out of business or sold out? Explain. Please be as specific as you can. You may use an attached sheet of paper if necessary.

FURTHER THE AFFIANT SAYETH NOT.

Richard L. Kendall

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Sworn to and ascribed before me this 20 day of June, 2000Roberta Gregory

Notary Public

My commission Expires: 7-17-2000

K&H Network, Inc.
4873 Big Horn Drive
Old Hickory, Tennessee
37138
(615) 889-3787

Mr. Walker,

Our Corporation has struggled for the past three years to stay in operation. Due to high phone bills , PICC and Universal charges that are added to each phone bill.

Revenue is down approximately 30% due to 10XXX #'s and 1800 #'s which we are only receiving 50 to 60% of these calls. We have pulled 50 phones in the last year because they are no longer profitable. Several Companies have called wanting to sell their pay phones and their businesses, but due to our own low profits we are not willing to take the chance.

Our expense of providing long distance 1+ service is \$1,500.00 per month, again due to PICC and Universal Charges. (\$4.33 PICC & \$.60 Universal Charges Per Line Per Month!)

Sincerely,



Richard L. Kendall
President

FROM : TPBA

FAX NO. : 6156619248

Jun. 19 2000 07:48AM P2

AFFIDAVIT

Comes now Affiant, (name) DONNA GUYTON and states and deposes as follows:

1. My name is DONNA GUYTON. The name of my payphone company is EXECUTIVE TELECOMMUNICATIONS. I have had 13 payphones in service today. Of those, 12 ~~are~~ ^{were} located in Bell South's service territory.

2. My average usage per phone in BellSouth's area is approximately 300 calls per month. My average BellSouth bill, including EULC and PCCC charges, is approximately \$ 42 per phone.

3. Please explain, in your own words, how your business has fared in the last three years. Have costs gone up? Are revenues down? Have you pulled phones from marginal locations? How many? Are you aware of other payphone owners who have gone out of business or sold out? Explain. Please be as specific as you can. You may use an attached sheet of paper if necessary.

My company, Executive Telecommunications, went out of business in mid February, 2000 after being in business for two years. The BellSouth monthly line charges were excessive and made it impossible for us to remain in business and make a profits.

FURTHER THE AFFIANT SAYETH NOT.

Donna E. Guyton

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Sworn to and ascribed before me this 21st day of June, 2000

Deborah L. Stannard
Notary Public
My commission Expires: 7/20/00



AFFIDAVIDT

Comes now Affiant, (name) ROBERT KITCHENER and states and deposes as follows:

1. My name is ROBERT KITCHENER. The name of my payphone company is CUMBERLAND TELECOM. I have 47 payphones in service today. Of those, ALL 47 are located in Bell South's service territory.
2. My average usage per phone in BellSouth's area is approximately 600 calls per month. My average BellSouth bill, including EULC and PICC charges, is approximately \$ 47 per phone.
3. Please explain, in your own words, how your business has fared in the last three years. Have costs gone up? Are revenues down? Have you pulled phones from marginal locations? How many? Are you aware of other payphone owners who have gone out of business or sold out? Explain. Please be as specific as you can. You may use an attached sheet of paper if necessary.

~~*~~ ATTACHED ~~*~~

FURTHER THE AFFIANT SAYETH NOT.

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Sworn to and ascribed before me this 21 day of June, 2000

Shawn L. Cuddeback

Notary Public

My commission Expires: 11-30-02

CUMBERLAND TELECOM

105 Second Avenue North • Nashville, TN 37201 • P (615) 259-2047 • F (615) 256-7112

June 19, 2000

To Whom it May Concern:

The last three years have been a devastating and disappointing time for our payphone company. Revenues have dropped at least 25 to 30% due to the proliferation of cellphones and prepaid calling cards. Although there are mechanisms in place designed to collect "dial-around compensation" for payphone owners, I estimate that less than half of what we are due comes our way.

As a result, we have pulled many "marginal" phones, and have been very selective in installing any new ones. We have turned down at least 20 locations over the last two years.

We regard the situation as a double-bind, because as revenues are declining, all our overhead and regular costs of doing business (payroll, rent, gas, etc etc) are constantly rising.

We are in desperate need of some kind of cost reduction on the exorbitant line charges that Bellsouth has been charging. We know that other states have seen relief, and we urgently need the same attention in order to stay in business. It is only fair to stipulate that if the actual useage of the payphones is declining, then the line charges should also come down.

We respectfully request that the TRA honor and grant the attached motion for interim relief in order to ensure that the members of the payphone industry stay solvent and are able to continue providing an essential service to the general public.



Robert Kitchener, Owner
Cumberland Telecom

AFFIDAVIT

Comes now Affiant, (name) ROBERT S. EDGERTON and states and deposes as follows:

1. My name is ROBERT S. EDGERTON. The name of my payphone company is ROBERTS, EDGERTON DBA. I have 20 payphones in service today. Of those, 17 are located in Bell South's service territory. AS (ALL) (20)
2. My average usage per phone in BellSouth's area is approximately 550 calls per month. My average BellSouth bill, including EULC and PICC charges, is approximately \$ 39.00 per phone.
3. Please explain, in your own words, how your business has fared in the last three years. Have costs gone up? Are revenues down? Have you pulled phones from marginal locations? How many? Are you aware of other payphone owners who have gone out of business or sold out? Explain. Please be as specific as you can. You may use an attached sheet of paper if necessary.

1. ~~5~~ 8 PHONE REMOVED

1. 8 IN STATE.

2. 3 OUT OF STATE.

3. 1 PENDING ~~AND~~ (UNDECIDED)

FURTHER THE AFFIANT SAYETH NOT.

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Sworn to and ascribed before me this 19th day of June, 2000

Dawn Mosley
Notary Public
My commission Expires: 6-17-01

ROBERT S. EDGERTON
2571 DAVIDSON GRAVEYARD RD,
CLARKSVILLE, TN
37043

931-362-3297

AFFIDAVIDT

Comes now Affiant, Robert E. Wilson and states and deposes as follows:

1. My name is Robert E. Wilson. The name of my payphone company is ProComm, Inc. I have 201 payphones in service today. Of those, 190 are located in BellSouth's service territory.
2. My average usage per phone in BellSouth's area is approximately 414 calls per month. My average BellSouth bill, including EULC and PICC charges is approximately \$45.00 per phone.
3. In the past three years the cost of our payphone lines have gone up significantly due to increases in EULC and PICC charges (approximately \$6.00 per phone). We are now paying \$12.21 per month in these two charges alone. In addition, for a period of 18 months within this same time period, we paid a \$1.03 per line per month flex ANI charge. Also in this same period, we have incurred the number portability charge of \$.35 per line per month. While costs have gone up, our revenues have decreased due to the popularity of cell phones and calling cards. This has caused our company to go from a growth company to a struggling company. We are adding new phones but phones are being removed which have become unprofitable for the above reasons. We have removed approximately 25 phones the past two years. I believe this is common throughout our industry. A couple of companies have recently sold out and others are looking to do the same.

FURTHER THE AFFIANT SAYETH NOT



STATE OF TENNESEE
COUNTY OF DAVIDSON

Sworn to and ascribed before me this 19th day of June, 2000



Notary Public

My commission Expires: 5/26/02

Comes now Affiant, Bill Gardner and states and deposes as follows:

1. My name is Bill Gardner. The name of my payphone company is Gardner Technology Resources. I have 312 payphones in service today. Of those, 303 are located in BellSouth's service territory.

My average usage per phone in BellSouth's area is approximately 431 calls per month. My average BellSouth bill, including EULC and PICC charges, is approximately \$ 48.35 per phone.

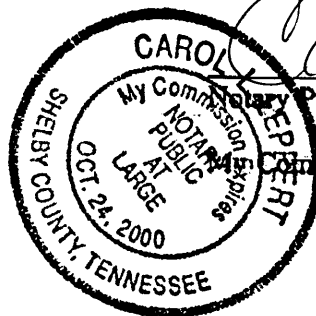
Add a paragraph about how your business has fared in the last three years. Have costs gone up? revenues down? have you pulled phones from marginal locations? How many? Are you aware of other payphone owners who have gone out of business or sold out? Explain and be as specific as you can.

FURTHER THE AFFIANT SAYETH NOT.

Bill F. Gardner

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Sworn to and subscribed before me this 16 day of June, 2000.



Commission Expires: 10/24/2000

June 16, 2000

Since March of 1999 until today, I have disconnected fifty-three (53) payphones which, at one time, were profitable, but because of reduced revenue caused by cellphones and lost long distance to 1010xxx calls and pre-paid calling cards. Adding to this lost revenue was the increase of the PICC charge by BellSouth from \$1.25 to \$4.31 per payphone. I have five more payphones that have been listed as marginal that will be disconnected in the near future. Instead of a growth company, my business has become a churning company. In other words, I don't buy new payphones; I try to find locations for the ones I have to disconnect.

A handwritten signature in cursive script, reading "Bill L. Gardner".

BILL L. GARDNER

AFFIDAVIT

Comes now Affiant, (name) Deborah L. Driskill and states and deposes as follows:

1. My name is Deborah L. Driskill. The name of my payphone company is D + T Payphones, Inc. I have 158 payphones in service today. Of those, 155 are located in Bell South's service territory.

2. My average usage per phone in BellSouth's area is approximately 41,201 calls per month. My average BellSouth bill, including EULC and PCCC charges, is approximately \$ 42.52 per phone.

Avgs - (Bell South) \$38.21 - PCCC charge 4.31 per line \$42.52 (Opticom)

3. Please explain, in your own words, how your business has fared in the last three years. Have costs gone up? Are revenues down? Have you pulled phones from marginal locations? How many? Are you aware of other payphone owners who have gone out of business or sold out? Explain. Please be as specific as you can. You may use an attached sheet of paper if necessary.

In the last three years our long distance has dropped from \$5,000 a month to \$1700.00 a month.

PCCC charges and EULC charges and FCC charges have increased and our revenue has dropped in half.

We have been pulling phones that would have been profitable if these charges were not implemented. We have pulled approximately

Twenty-four (24) phones a year for the last (3) years. We currently purchased a route this June from an independent who couldn't survive these high cost

FURTHER THE AFFIANT SAYETH NOT.

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Sworn to and ascribed before me this 19th day of June, 2000

Dee R. King

Notary Public

My commission Expires: 1-25-2003

D+T Payphones Inc

615-885-4937



BILLING NUMBER 615 M36-5327 777
BILLING PERIOD MAY 23, 2000 00138
PAGE 5

CHARGES FOR EARNING NUMBER 615 226-8711

MONTHLY SERVICE

14. MONTHLY SERVICE - MAY 23 THROUGH JUN 22	30.37
BREAKDOWN BY STATION NUMBER	
615 226-8711	30.37
15. FCC CHARGE FOR NETWORK ACCESS.	7.84
BREAKDOWN BY STATION NUMBER	
615 226-8711	7.84
TOTAL MONTHLY SERVICE	38.21

OTHER CHARGES AND CREDITS

MAR 31, 2000 SO-RATE CHANGE

EARNING NUMBER 226-8711

16. CREDIT DUE TO DECREASE IN RATES FOR INTERSTATE TOLL ACCESS, AS ORDERED BY THE FEDERAL COMMUNICATIONS COMMISSION FROM APR 1 00 THRU MAY 22 00 (\$.01/MO)	0.02%
TOTAL RECURRING OC&C FOR SO-RATE CHANGE	.02%
TOTAL NONRECURRING OC&C FOR SO-RATE CHANGE	.00
TOTAL OC&C DEBITS	.00
TOTAL OC&C CREDITS	.02%
TOTAL OTHER CHARGES AND CREDITS	.02%

ITEMIZED CALLS

DIAL AROUND COMPENSATION FOR 615 226-8711

17. CREDIT FOR DIAL AROUND COMPENSATION.	0.24%
--	-------

TOTAL ITEM CALLS FOR EARNING # 615 226-8711 .24%

DIRECTORY ASST FOR EARNING # 615 226-8711 0 LOCAL CALLS 0 INTRASTATE CALLS

LOCAL USAGE

Local Usage Summary for 615-226-8711

Band	-DAY-		-EVENING-		-NIGHT/WKND-		Charges
	Calls	Total Mins	Calls	Total Mins	Calls	Total Mins	
A	36	66.4	56	128.9	47	150.9	3.01
B	159	352.1	130	289.6	105	177.3	9.78
							12.79
							10.00 CREDIT

Usage Allowance

18. Local Usage Summary	2.79
TOTAL LOCAL USAGE	2.79

TOTAL FOR EARNING NUMBER 615 226-8711 40.74



46318 D & T PAYPHONES, INC.

05/00

*Long Distance
Opticom
1+ + 0+*

Previous Balance	921.89
Payment - Thank You 05/08/2000	-921.89
Call Charges	319.49
FCC Assessment - PICC	620.20
FCC Assessment - USF	10.17
	=====
Pay this amount by 06/06/00	949.86

MAKE CHECKS PAYABLE TO: One Call Communications Inc., P.O. Box 1527, Indianapolis, IN. 46206-1527. 1-800-788-4562

*****IMPORTANT INFORMATION*****

As always, please remember to remit your statement top with your payment in order to avoid a delay in applying your payment to your account.

If you have questions regarding your bill, please promptly contact One Call at the toll free number above. Disputes should be communicated to One Call within 60 days of the invoice date; otherwise, the invoice will be considered correct and binding.